



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,799	05/25/2001	Lincoln Rodon	41235-066USPT	4515

7590 02/24/2004

Daniel G. Nguyen
Jenkins & Gilchrist
A Professional Corporation
1100 Louisiana, Suite 1800
Houston, TX 77002

EXAMINER

O CONNOR, GERALD J

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 02/24/2004

//

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,799

Applicant(s)

Rodon

Examiner

O'Connor

Art Unit

3627



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on December 1, 2003 (Amdt "A").
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above, claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on May 25, 2001 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

DETAILED ACTION

Preliminary Remarks

1. This Office action responds to the amendment and arguments filed by applicant on December 1, 2003 (Paper N^o 10) in reply to the Office action mailed August 28, 2003.
2. The amendment of claim 6 by applicant in Paper N^o 10 is hereby acknowledged.
3. The addition of claims 9-10 by applicant in Paper N^o 10 is hereby acknowledged.

Election/Restriction

4. Claims 1-5 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-elected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper N^o 7.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Ahlstrom et al. (US 4,862,357). See, in particular, Figures 8 and 9.

Ahlstrom et al. disclose a method for facilitating selection of travel itineraries, comprising: selecting one or more travel criteria; defining a traveler profile containing traveler preferences associated with the travel criteria; deriving preference factors including a lowest fare multiplier, an available dates index, a non-stop service index, and an equipment type index for said travel criteria based on the traveler preferences; initiating a query of at least one travel information database for itineraries matching the selected travel criteria using an on-line search engine; calculating a travel value index for each itinerary using a travel value algorithm that subtracts preference factors from, or adds preference factors to, or both, an optimal value of the travel value index depending on the criteria matching itineraries; and, returning only itineraries where the travel value index thereof satisfies a traveler defined threshold.

Regarding claim 7, the method of Ahlstrom et al. further comprises canceling before final completion of the query any itineraries that cannot satisfy the traveler defined threshold.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahlstrom et al. (US 4,862,357), in view of Bunyan et al. (EP 1,076,307).

Ahlstrom et al. disclose a method for facilitating selection of travel itineraries, as applied above in the rejection of claim 6 under 35 U.S.C. 102(b), but Ahlstrom et al. do not specifically disclose that their travel value algorithm is defined in a manner such that an optimal value for the travel value index is approximately 100 percent. However, Bunyan et al. disclose a similar method, which method indeed includes that the travel value algorithm is defined in a manner such that an optimal value for the travel value index is approximately 100 percent. See, in particular, column 4, lines 39-42.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Ahlstrom et al. so as to define the travel value algorithm in a manner such that an optimal value for the travel value index would be approximately 100 percent, in accordance with the teachings of Bunyan et al., in order to simplify the presentation of the results and make it easier for the user to discern how different a particular, less-than-optimal result would be from an optimal result.

Regarding claims 9-10, Ahlstrom et al. disclose a method for facilitating selection of travel itineraries, as applied above in the rejection of claim 6 under 35 U.S.C. 102(b), but Ahlstrom et al. do not specifically disclose that the selecting, defining, deriving, and initiating are performed over the Internet using a Web browser, nor that the preferences are modified using a Web browser in real time over the Internet and that then the steps of selecting, defining,

deriving, and initiating are repeated using the modified preferences. However, Bunyan et al. disclose a similar method, which method indeed includes that the selecting, defining, deriving, and initiating are performed over the Internet using a Web browser (see column 3, lines 3-4), as well as modifying the preferences using a Web browser in real time over the Internet prior to repeating the steps of selecting, defining, deriving, and initiating, using the modified preferences (see column 3, lines 23-26).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Ahlstrom et al. so as to use the Internet by means of a Web browser to perform the steps of selecting, defining, deriving, and initiating, as well as to modify the preferences using a Web browser in real time over the Internet, then repeating the steps of selecting, defining, deriving, and initiating using the modified preferences, all in accordance with the teachings of Bunyan et al., in order to reach as broad/widespread of a customer base as possible, and to allow customers as much flexibility as possible.

Response to Arguments

9. Applicant's arguments filed December 1, 2003 have been fully considered but they are not persuasive.

10. Regarding the argument that the method of Ahlstrom et al. fails to disclose returning only itineraries where the travel value index satisfies a traveler defined threshold, the method of

Ahlstrom et al. indeed provides for this element of the claims. See, for example, claim 33, which recites, “including the step of determining when a predetermined number of travel itineraries have been created, and discontinuing the creation of additional travel itineraries when the predetermined number has been reached.”

11. Regarding the argument that the references fail to show certain features of applicant’s invention, it is noted that the features upon which applicant relies (i.e., “screening an itinerary after it has been scored” and “stopping a query before final completion for those itineraries that cannot meet the threshold travel value index or score”) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

12. Regarding the argument that Ahlstrom et al. fail to disclose an optimal value index or score, Ahlstrom et al. indeed disclose an optimal value index or score, which Ahlstrom et al. refer to both as the “recommended fare” and the “best overall itinerary.” See, for example, column 12, lines 25-31.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to the disclosure.

14. Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

15. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(703) 305-1525**, and whose facsimile number is **(703) 746-3976**.

The examiner can normally be reached weekdays from 9:30 to 6:00.

Inquiries of a general nature or simply relating to the status of the application should be directed to the receptionist, whose telephone number is **(703) 308-1113**.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Robert Olszewski, can be reached at (703) 308-5183.

Official replies to this Office action may be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies are preferred and should be directed to (703) 872-9306** (fax-back auto-reply receipt service provided). Mailed replies should be addressed to "Commissioner of Patents and Trademarks, Washington, DC 20231." Hand delivered replies should be left with the receptionist on the seventh floor of Crystal Park Five, 2451 Crystal Dr, Arlington, VA 22202.

GJOC

February 19, 2004

Handwritten signature of Robert P. Olszewski, dated 2/23/04.

ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600